

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2002-686

March 7, 2003

Appeal of Consumer Assistance Division
Decision #13661 Regarding Auburn Water
District

ORDER

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

In this Order, we remand to the Consumer Assistance Division's (CAD) its October 28, 2002 decision concerning the Auburn Water District (AWD) and its customers Paul and Lisa Gribbin, as described below.

II. BACKGROUND

On August 28, 2002, Lisa Gribbin contacted the CAD concerning high water usage at a seven-unit apartment building she and her husband own in Auburn. Mrs. Gribbin questioned the high usage recorded on the meter.

After investigating the matter, CAD issued its decision on October 28, 2002, finding that the Gribbins were responsible for paying for the water that had passed through a properly operating meter. AWD tested the meter, which was old, and found that the meter read 80% accurate at low flow, 97% at medium flow and 97% at high flow. When it took out the old meter for testing it replaced it with a new one, outside the building.

On November 4, 2002, Mrs. Gribbin appealed CAD's decision to the Commission (and submitted additional information dated November 16, 2002). In her appeal she questions the accuracy of the old meter and whether it was possibly malfunctioning. She further states that although a water heater burst in the building in mid-July, it was replaced within 24 hours. She questions how the tenants could have used 44,300 cubic feet of water in a quarter when historical usage has been 7000 – 8000 cubic feet per quarter. She claims after consulting her plumber that it would be virtually impossible for the broken tank to have leaked 271,524 gallons (the equivalent of 36,300 cubic feet).

III. DECISION

As explained in CAD's decision, a customer is responsible for the cost of water once it passes through a properly operating meter. Here the meter was not operating properly because at low flows it read outside Commission standards. However, it was reading low at low flows which would not have caused the high usage reading. A malfunctioning water meter rarely, if ever, would read high. The Commission's rules also require that meters be tested at least every eight years. AWD had not tested this

meter since it was installed in March 1986. Under Commission rules water utilities must allow customers to witness a water test if the test is made at the request of a customer. Although in this case the District removed the meter on its own, without a customer request, it would still be advisable to allow a customer an opportunity to witness the test, to avoid possible future misunderstandings about the test process.

We agree that that amount of usage for the quarter was extremely high. Because the meter was not operating properly nor had it been previously tested in years, our usual standard does not apply. Instead, we remand this matter back to CAD and require AWD to give the Gribbins the option of having the District do a second test of the meter in their presence (and in the presence of any expert they wish to have attend). CAD should reconsider its decision if that test produces a different result or raises new issues.

While the case is pending before CAD, the District and the customer should try and find a way to settle this matter perhaps by dividing the amount above the usual usage as originally proposed by the Gribbins. This is a case where the steps that might be required to find out exactly what happened could cost far more than is at issue and even then the effort might well be unsuccessful.

Dated at Augusta, Maine, this 7th day of March, 2003.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Nugent
 Diamond

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

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